

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Donald Nixon, et al.,

Plaintiffs,

–v–

Star Furniture Company,

Defendant.

20-cv-2253 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

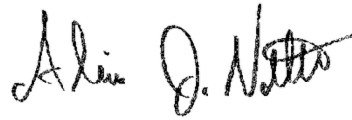
On May 29, 2020, Defendant filed a motion to dismiss. Pursuant to Rule 3.F of this Court’s Individual Practices in Civil Cases, on or before June 8, 2020, Plaintiffs must notify the Court and their adversary in writing whether (1) they intend to file an amended pleading and when they will do so or (2) they will rely on the pleading being attacked. Plaintiffs are on notice that declining to amend their pleadings to timely respond to a fully briefed argument in the Defendant’s May 29 motion to dismiss may well constitute a waiver of the Plaintiffs’ right to use the amendment process to cure any defects that have been made apparent by the Defendant’s briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”).

If Plaintiffs choose to amend, Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it relies on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: June 5, 2020  
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

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ALISON J. NATHAN  
United States District Judge